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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/717,042	09/20/1996	IGOR PALLEY	30-3744CIP	6496
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VIRGINIA S. ANDREWS			ELOSHWAY, NIKI MARINA	
ALLIEDSIGNA LAW DEPART	=		ART UNIT	PAPER NUMBER
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TETERODORO, VA 23004			DATE MAILED: 01/29/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

¹					
	Application No.	Applicant(s)			
Office Action Summany	08/717,042	PALLEY ET AL.			
Office Action Summary	Examiner	Art Unit			
The MAILING DATE of this communication app	Niki M. Eloshway	3727			
Period for Reply	ears on the cover speet with the c	correspondence address			
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period we Failure to reply within the set or extended period for reply will, by statute, - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b). Status	6(a). In no event, however, may a reply be tin within the statutory minimum of thirty (30) day ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).			
1) Responsive to communication(s) filed on <u>05 No</u>	ovember 2003.				
2a) ☐ This action is FINAL . 2b) ☒ This a	action is non-final.				
3) Since this application is in condition for allowan closed in accordance with the practice under E.					
Disposition of Claims					
4) ☐ Claim(s) 1,3-11,13-47 and 51-53 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 1,3-11,13-47 and 51-53 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or election requirement.					
Application Papers	·				
9) The specification is objected to by the Examiner 10) The drawing(s) filed on is/are: a) access Applicant may not request that any objection to the of Replacement drawing sheet(s) including the correction of the original transfer of the examiner of the content of the original transfer of the examiner of the content of the examiner of the e	epted or b) objected to by the larawing(s) be held in abeyance. See on is required if the drawing(s) is objected. Note the attached Office priority under 35 U.S.C. § 119(as have been received. Applicating the documents have been received (PCT Rule 17.2(a)). Of the certified copies not received priority under 35 U.S.C. § 119(as priority under 35	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d). Action or form PTO-152. a)-(d) or (f). on No ed in this National Stage ed. e) (to a provisional application)			
37 CFR 1.78. a) ☐ The translation of the foreign language provants. 14) ☐ Acknowledgment is made of a claim for domestic reference was included in the first sentence of the Attachment(s) 1) ☑ Notice of References Cited (PTO-892) 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)	visional application has been rec priority under 35 U.S.C. §§ 120 e specification or in an Applicatio 4) Interview Summary	eived. and/or 121 since a specific			
Information Disclosure Statement(s) (PTO-1449) Paper No(s) Patent and Trademark Office	6) 🖾 Other: 🛆 🎞 .	1			



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DETAILED ACTION

Introduction

1. This Action was necessitated by the newly presented argument regarding claims 21, 22 and 24, set forth in the Appeal Brief filed November 5, 2003.

Election/Restriction

Claims 12, 48-50 and 54-66 are withdrawn from further consideration by the examiner,
 CFR 1.142(b) as being drawn to a non-elected species. Election was made without traverse in
 Paper No. 11.

Claim Rejections - 35 USC § 103

- 3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 4. Claims 1, 3-6, 8, 20-28, 30, 47, 51 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sacks (U.S. 5,249,534) in view of MacDonald et al. (U.S. 3,822,807). Sacks discloses the claimed invention except for the blast mitigating material. MacDonald et al. teach that it is known to provide a container with foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Sacks with the foam of MacDonald et al., in order to prevent a rise in pressure within the container.



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Sacks teaches a container set forth in col. 1 line 43 through col. 2 line 23. The bands of Sacks can be made of SPECTRA, as set forth in col. 1 lines 33-42. This SPECTRA material is the same material used in applicant's invention, and therefore has the same characteristics.

Regarding claims 21, 22 and 24, Applicant states in the Appeal Brief filed November 5, 2003 that at the time of the Sacks invention the "SPECTRA SHIELD material would have been characterized by a maximum of 50 percent of its continuous fiber lengths running in one direction - the balance would have been at approximately a 90° angle to the direction of these fiber lengths." Evidence has not been presented by Applicant to defend such a statement.

5. Claims 10, 11, 13-19, 33-43 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sacks (U.S. 5,249,534) in view of MacDonald et al. (U.S. 3,822,807) and Lewis (U.S. 0,674,009). Sacks discloses the claimed invention except for the blast mitigating material and except for the strips of material forming bands. MacDonald et al. teach that it is known to provide a container with foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Sacks with the foam of MacDonald et al., in order to prevent a rise in pressure within the container.

Lewis teaches that it is known to provide a container, made of three bands, wherein the first and second bands form tubes (see elements B and C). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Sacks with the first and second strips forming bands, as taught by Lewis, in order to protect the entire inner container, including the bottom wall thereof.

6. Claims 1, 3, 4, 7, 9, 20, 23, 27, 29, 31, 47 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sacks in view of Gettle et al. Sacks discloses the claimed invention except for the blast mitigating material. Gettle et al. teach that it is known to provide a container with aqueous foam (see line 11 of the Abstract). It would have been obvious to one having ordinary skill in the art at



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the time the invention was made to provide the container of Sacks with the aqueous foam of Gettle et al., in order to attenuate pressure waves.

- Claims 21, 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sacks (U.S. 5,249,534) in view of MacDonald et al. (U.S. 3,822,807), as applied to claim 20, and further in view of Harpell et al. (U.S. 4,623,574). To the degree that applicant argues that the SPECTRA material used by Sacks did not have at least 75 percent of its fibers substantially continuous. Harpell et al. teaches that it is known to provide a material wherein the fibers are wound around an article. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Sacks with at least 75 percent of the fibers being substantially continuous, in order to increase the strength of the band.
- 8. Claims 32, 33, 35, 38, 42, 44 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sacks in view of Gettle et al. and Lewis. Sacks discloses the claimed invention except for the blast mitigating material and except for the strips of material being bands. Gettle et al. teach that it is known to provide a container with aqueous foam (see line 11 of the Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Sacks with the aqueous foam of Gettle et al., in order to attenuate pressure waves.

Lewis teaches that it is known to provide a container, made of three bands, wherein the first and second bands form tubes (see elements B and C). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Sacks with the first and second strips forming bands, as taught by Lewis, in order to protect the entire inner container, including the bottom wall thereof.

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Response to Arguments

9. Applicant's arguments filed November 5, 2003 have been fully considered but they are not persuasive.

A. Claims 1, 3-6, 8, 20-28, 30, 47, 51 and 52

Applicant argues that Sacks "fails to teach a collapsible container or a container of blast resistant material" (page 6 of Appeal Brief, filed November 5, 2003). It is the examiner's position that that the cover of Sacks meets the limitations of the collapsible container set forth in the claims. A container is defined in Webster's Ninth New Collegiate Dictionary (1990) as "one that contains; esp: a receptacle or a flexible covering for the shipment of goods" (see Attachment 1). The cover of Sacks contains the rigid-container and it is a flexible covering for the shipment of goods. This cover of Sacks is made from "high tensile strength, high stretch resistant flexible material", as described on page 6 of the Appeal Brief filed November 5, 2003. This material allows the cover to be considered collapsible, as set forth in the pending claims.

Regarding claims 21, 22 and 24, Applicant argues that Sacks does not teach or suggest that at least about 75 weight percent of the fibers are continuous lengths of fiber that encircle the enclosed volume. In col. 1 line 65 through col. 2 line 7, Sacks sets forth a cover comprised of three panels of material. The third panel is wound around the enclosed volume and has its ends connected together. This third panel encircles the volume by forming a closed loop or closed bland of material. Sacks teaches the use of woven and non-woven fabric, such as SPECTRA and SPECTRASHIELD (col. 1 lines 37-39).

Applicant argues that "SPECTRA SHIELD material would have been characterized by a maximum of 50 percent of its continuous fiber lengths running in one direction - the balance would have been at approximately a 90° angle to the direction of these fiber lengths" (page 6 of the Appeal Brief filed November 5, 2003) at the time of the Sacks invention. The patent of Harpell et al. (U.S.

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4,623,574) teaches that it was known by 1986 that layers of fibers could be arranged to extend in parallel direction. Harpell et al. also teaches that continuous lengths of yarn could be wrapped around an article.

Regarding the McDonald reference, Applicants argue that the foam balls of MacDonald et al. "will not make the standard container disclosed by Sacks effective to withstand a blast" (page 7 of Appeal Brief filed November 5, 2003). The examiner disagrees with this position. The foam balls of MacDonald would aid in reducing or mitigating the effects of a blast, to the degree set forth in the claims. Applicant sets forth that Example 11 of the present application prevents fire, and that Examples 12-16 provide protection against explosive charges weighting two to four times that which can be container without foam. It is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding claims 47, 51 and 52, Applicant argues that the claimed container has two open sides. It is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 47 is an open claim which sets forth a band of material. It does not set forth that the container is open on two sides. Sacks teaches a band of material in col. 2 lines 4-7. It is unclear why the cover of Sacks is not considered a container by Applicants but the band of material can be considered a container by Applicants.

B. Claims 10-11, 13-19, 33-43 and 45

Applicant argues that the panels of Sacks are not bands. The examiner disagrees with this position. Sacks teaches a third panel which encircles the volume and has its ends connected together

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(col. 2 lines 4-7). In addition, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). These claims are rejected over Sacks as modified by MacDonald and Lewis. The reference of Lewis teaches a container formed by three thin, flat, volume-encircling strips or bands. The first and second panels of Sacks are modified by the structure of the panels of Lewis, such that the first and second panels of Sacks become volume-encircling. Furthermore, it should be noted that applicants have not set forth in the claims or in the definition of band that the bands must be a closed loop.

C. Claims 1, 3-4, 7, 9, 20, 23, 27, 29, 31, 47 and 53

Regarding the Gettle et al. reference, Applicant sets forth that Example 11 of the present application prevents fire, and that Examples 12-16 provide protection against explosive charges weighting two to four times that which can be container without foam. It is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

D. Claims 32-33, 35, 38, 42, 44 and 46

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

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Conclusion

10. In view of the new grounds of rejection for claims 21, 22 and 24, which was necessitated by

the newly presented argument regarding the SPECTRA Fibers, THIS ACTION IS MADE NON-

FINAL.

11. In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging

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your cover sheet. Papers submitted via FAX will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Niki M. Eloshway whose telephone number is (703) 308-1606. The examiner is in

the office on Tuesdays and Fridays. Any inquiry of a general nature or relating to the status of this

application should be directed to the 3700 Customer Service Office at (703) 306-5648.

yiki M. Eloshway/npre

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Patent Examiner

January 23, 2004

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constructive • containment constructive \kan-strak-tiv\ ad/ (1680) 1: declared such by judicial construction or interpretation (~ fraud) 2: of or relating to construction or creation 3: promoting improvement or development (~ criticism) — constructively adv — constructiveness n constructivism \kan-strak-ti-viz-am\ n. often cap (1923): a nonobjective art movement originating in Russia and concerned with formal organization of planes and expression of volume in terms of modern industrial materials (as glass and plastic) — constructivist \-ti-vast\ appointing country — consul-ar. -s(o-l)ar. adj — consul-ship \ -sol-ship \ n \ (14c) 1: a government by consuls 2: the office, term of office, or jurisdiction of a consul 3: the residence or official premises of a consul consulates general (1883): the residence, office, or jurisdiction of a consul general (1883): the residence, office, or jurisdiction of a consul general (1883): the residence, office, or jurisdiction of a consulate general (1883): the residence, office, or jurisdiction in an important place or having jurisdiction in several places or over several consuls consult (1883): the residence, office, or over several consuls (1883): the residence, office, or jurisdiction in several places or over several consuls (1883): the residence, office, or over several consuls general (1882): a consult of the first rank stationed in an important place or having jurisdiction in several places or over several consult (1883): the residence, office, or over several consult (1883): the residence, office, or over several consult (1883): the residence or office, or over several consult (1883): the residence, office, or over several consult (1883): the residence or office, or over several consult (1883): the residence, office, or over several consult (1883): the residence or office, or over several consult (1883): the residence or office, or over several consult (1883): the residence or office, or over several consult (1883): the residence or office, or over several consult (1883): the residence or office, or over several consult (1883): the residence or office, or over several consult (1883): the residence or office, or over several consult (1883): the residence or office, or over several consult (1883): the residence or office, or over several consult (1883): the residence or office, or over several consult (1883): the residence or office, or over several consult (1883): the residence or office, or over several consult (1883): the residence or office, or over several consult (1883): the residence or office, or over seve sultant—consulter h

con-sult (kan-'salt, 'kän-'\n' (1560): consultation

con-sult (kan-'salt, 'kän-'\n', pi -cies (1955): 1: consultation

con-sultan-cy (kan-'salt, 'n-se\', n', pi -cies (1955): 1: consultation of a : an agency than provides consulting services and position of the consultant consultant ken-solt-inty n (1697) 1: one who consults another 2 one who gives professional advice or services: EXPERT consultant-ship _ship_n = \frac{1}{2} \cdot \text{consultant-ship} _ship_n = \frac{1}{2} \cdot \text{consultant-ship} _n = \frac{1}{2} \cdot \text{of or relating to consultation or a consultant (the \(\text{consultant} \text{consultant} \text{consultant} \text{consultant} \text{consultant} \(\text{consultant} \text{consultant} \text{consultant} \text{consultant} \text{consultant} \(\text{consultant} \text{consultant} \text{consultant} \text{consultant} \text{consultant} \text{consultant} \(\text{consultant} \text{consultant} \text{consultant} \text{consultant} \text{consultant} \text{consultant} \(\text{consultant} \text{consultant} \text{consultant} \text{consultant} \text{consultant} \text{consultant} \(\text{consultant} \text{consultant} \text{consultant} \text{consultant} \text{consultant} \(\text{consultant} \text{consultant} \text{consultant} \text{consultant} \text{consultant} \text{consultant} \(\text{consultant} \text{consultant} \text{consultant} \text{consultant} \text{consultant} \text{consultant} \text{consultant} \(\text{consultant} \text{consultant} \text{consultant} \text{consultant} \text{consultant} \) : an adviser to a Roman Catholic bishop, provincial, or sacred congregation
consum-able \kan-\su-ma-bal\ adj (1641): capable of being consumed
consum-able n (1802): something (as food or fuel) that is consumable
— usu used in pl.
consume \kan-\sum \ vb consumed; consum-sing [ME consumen: fr. MF
or L; MF consumer, fr. \L consumer-(fr. com-\(\perp\) sumer-to-take up,
take, fr. sub- up \(\perp\) emere to take \(\perp\) more at SUB. REDEEM | vf (146) \(\perp\): to do away with completely: DESTROY-(fire consumed several buildings) 2 a: to spend wastefully: SQUANDER b: USE UF (writing consumed much of his-time) 3: to eat or drink esp: in great quantity
(consumed several kegs of beer) 4::to engage fully: ENGROSS (consumed with curiosity) \(\pi \times vi : to waste or burn away: \(\text{PERISH} : 2): to
utilize economic goods
con-sum-ed-ly \(\text{\su} \times vi : nor (fire attrib (15c)): one that consumes: as: a
: one that utilizes economic goods b: an organism requiring complex
organism or by eating particles of organic matter - compare PRODUCER
4 - con-sum-er-ship \(\text{\ship} n\): credit granted, to an individual esp: to finance the purchase of consumer goods or to defray personal or family
expenses
consumer goods n nl (1890): goods that directly satisfy human wants

expenses consumer goods n pl (1890): goods that directly satisfy human wants consumer sim \kən 'sü-mə-riz-əm\ n (1944) 1: the promotion of the consumer is interests 2: the theory that an increasing consumption of goods is economically desirable; also: a preoccupation with and an inclination toward the buying of consumer goods — consumer-ist

\rost\ n reconsumer price index n (ca. 1948): an index measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in some base period — called also cost-of-living index consum-ling \kon-'sil-min\ adj (1920): deeply felt: ARDENT (a ~ interest); also: ENGROSSING 'con-sum-mate \kon-'som-ot, 'k\u00e4n(t)-so-mot\ adj [ME, fr. L consum-matus, pp. of consummare to sum' up. finish; fr. com- + summa sum (15c) 1: complete in every detail: PERFECT 2: extremely skilled and

an observing or receiving of a significant signal from a person or observing an observing or receiving of a significant signal from a person or observing an observing or receiving as a carrier or source of the contact with Mars). 3: one serving as a carrier or source of the contact with Mars). 3: one serving as a carrier or source of the contact with individual or enter or be in contact with individual or enter or be in contact with individual or contact with individual of the contact of the standard of contact as a very esp. in sense 2b. But most commentators contact that it has become established as standard or caused by contact of the conta contact iens (kan-tak(t)-\n (1888): a thin lens designed to fit over the cornea of the

accomplished (a ~ liar) 3: of the highest degree (~ skill)

accomplished (a ~ liar) 3: of the highest degree (~ skill) (cly) — con-sum-mate-ly adv
'con-sum-mate \kan(t)-sə-māt\ vb -mat-ed; -mat-lng vt (1530) it
: FINISH, COMPLETE (~ a business deal) b: to make peter
: ACHIEVE 2: to make (marital union) complete by sexual interest of the marriage) ~ vi : to become perfected — con-sum-mat-iv, kən-səmət-iv\ adj — con-sum-mat-iv\ kan(t)-sə-māt-iv, kən-səmət-iv\ adj — con-sum-mat-iv\ n

directed behavior consumption (No.) shan (n. [ME consumpcioun. Ir. L. consumption (No.) sam(p)-shan (n. [ME consumpcioun. Ir. L. consumption. Ir. Consumption.

directed behavior consumption \kappa \sim \(\) and \(\) in [ME consumption \kappa \)

contain \kon-tan\ vb [ME conteinen fr: OF contenir, fr. L continen fr. Intenir fr. L continen fr. Contenir, fr. L continen fr. Intenir fr. L contenir fr. Contenir, fr. L contenir fr. Intenir fr. Contenir, fr. L contenir fr. L conten

ing within. CONTAIN implies the actual presence of a specified substance or quantity within something; HOLD implies the captaing the containing of the usual or permanent function of containing or keping; ACCOMMODATE stresses holding without crowding or inconvenience.

ings. ACCOMMODATE stresses holding without crowding or incompanience.

contained adj (1653): RESTRAINED also: CALM

container kin-ta-har\n (15c): one that contains; esp: a receptacle, or a flexible covering for the shipment of goods

container-board _bo(a)rd, _bo(a)rd\n (ca. 1924): corrugated or solid paperboard used for making containers

container-iza-tion \kan-ta-na-ra-za-shan\n (1956): a shipping method in which a large amount of material (as merchandise) is past aged together in one large container:

container-izae \kan-ta-na-riz\n v -lzed; \flackling (1956): 1; to ship by container-izae \kan-ta-na-riz\n v -lzed; \flackling (1956): 1; to ship by container-ization 2: to pack in containers

container-port \-na-po(a)rt, -po(a)rt\n (1970): a shipping port specially equipped to handle container-izae cargo

contain-er-ship \-na-ship\n (1966): a ship esp designed or equipped for carrying container-izae cargo

contain-ment \kan-tain-man\n (1655): 1: the act, process, or mean of containing 2: the policy, process, or result of preventing the expansion of a hostile power or ideology